

OLL 84-2509/7
28 September 1984

MEMORANDUM FOR: Acting Director of Central Intelligence
THROUGH: Executive Director
FROM: Charles A. Briggs
Director, Office of Legislative Liaison
SUBJECT: Legislative Program for the First Session of
the 99th Congress

1. Attached is a compilation of legislative initiatives which we would propose submitting to OMB as the Intelligence Community's Legislative Program for the first session of the 99th Congress. As you know, each agency is required to prepare and submit to OMB annually its proposed legislative program for the next session of Congress. In your capacity as Director of Central Intelligence, a legislative program must be submitted to OMB on behalf of the entire Intelligence Community. The attached legislative program was developed after soliciting and receiving comments from both Agency components and other Intelligence Community agencies.

2. The inclusion of a proposal in the Legislative Program does not constitute a commitment or otherwise require the Agency to actively seek its enactment. At this stage in the process, we are simply submitting proposals to OMB for Administrative clearance so that we may either seek their enactment during the annual authorization process, pursue these initiatives as separate freestanding pieces of legislation or decide not to take any action whatsoever with respect to these various proposals. With this fact in mind, there is still a question as to whether one of the attached items properly should be included as part of the Legislative Program. This proposal concerns an NSA initiative which would provide civil remedies for unauthorized disclosures of signals intelligence information.

3. Item 99/1 - 11, the Signals Intelligence Protection Act, is a proposal submitted by NSA designed to better protect sensitive signals intelligence by providing the U.S. with civil remedies (primarily the award of money damages) in cases involving the intentional unauthorized disclosure of signals intelligence information. As you will recall, this same



proposal was included in last year's Legislative Program, and was approved by OMB during its review of the program. While NSA has not formally coordinated the specific language of this proposed act with the Department of Justice (DOJ), DOJ did not offer any objections to the inclusion of this proposal in last year's Intelligence Community program. In addition, Richard Willard, Acting Chief, Civil Division, Department of Justice, has informally reviewed the proposal and has indicated his interest in this initiative.

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4. With respect to the rest of the Legislative Program, many of the proposals contained therein are measures which may become law as part of the 1985 Intelligence Authorization Act. Certain other proposals were submitted and approved by OMB as part of last year's Legislative Program. Of particular interest in this regard is Item 99/1 - 8, which concerns proposed legislation to deal with the possible adverse impact of social security coverage and federal retirement system changes on intelligence operations; a subject which Congress will closely focus on during this coming session.

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5. In addition to the above proposals which have been included in either an earlier Legislative Program or Authorization Act, OGC has submitted two new initiatives for inclusion in this year's Legislative Program. Item 99/1 - 15 would provide the United States with a right of interlocutory appeal of any federal court evidentiary ruling or dispositive motion when the DCI certifies that the decision being appealed would have an adverse impact on the national security. Item 99/1 - 17 would limit the personal liability of intelligence community personnel for causes of action arising out of injuries based on acts or omissions of such personnel. An individual claim in such actions would have to be brought exclusively against the United States.

6. If you have no objections to the attached Legislative Program, we will make appropriate arrangements to have the Program included as part of the NFIP package submitted by ICS to OMB.

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Charles A. Briggs

Attachment

CENTRAL INTELLIGENCE AGENCY
AND
INTELLIGENCE COMMUNITY
PROPOSED LEGISLATIVE PROGRAM FOR THE FIRST SESSION
OF THE 99th CONGRESS

PART I -- PRESIDENT'S PROGRAM PROPOSALS

99/1 - 1: Freedom of Information Legislation

Relief for the Central Intelligence Agency from the Freedom of Information Act is necessary to end the wasteful and debilitating diversion of intelligence resources and critically needed skills into FOIA matters, to eliminate the danger of court-ordered release of properly classified information, and to maintain the confidence of human sources and foreign intelligence services in the Agency's ability to protect intelligence information provided to it. Prompt consideration and passage by the 99th Congress of legislation to provide effective relief from the resource, operational, and security problems currently besetting the Central Intelligence Agency under the Freedom of Information Act is urgently required. This proposal may become law in the current session of the 98th Congress, but will be pursued in the first session of the 99th Congress if it does not.

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O.B.C.*

PART II -- OTHER PROPOSALS

99/1 - 2: Fiscal Year 1986 Intelligence Authorization Act

The Director of Central Intelligence will submit to the Office of Management and Budget a proposed Fiscal Year 1986 Intelligence Authorization Act for transmittal to the Congress.

99/1 - 3: Intelligence Personnel Protection

The proposal to provide federal criminal penalties for acts of violence against officers or employees of the Intelligence Community was passed by both Houses in the 97th Congress as part of a bill which the President declined to approve, and again was

passed by the Senate in the 98th Congress. The President has stated his support for enactment of this proposal and the Director of Central Intelligence will continue to pursue it in the first session of the 99th Congress.

99/1 - 4: Overcoming Impediments to Naturalization of Certain Persons Contributing to the National Intelligence Mission

This proposal is designed to amend the Immigration and Nationality Act to authorize the waiver of general residency, physical presence and several other technical requirements which currently impede the naturalization of certain persons who have made a substantial contribution to the national intelligence mission.

99/1 - 5: Enhanced Personnel Management Authorities for the Defense Intelligence Agency

The Director of Central Intelligence will support legislation to afford the Defense Intelligence Agency increased flexibility in the management of its personnel system. This proposal may become law as part of the Fiscal Year 1985 Intelligence Authorization Act, but will be pursued in the first session of the 99th Congress if it does not.

99/1 - 6: Classified Information Procedures Act Amendments

The Director of Central Intelligence may propose amendments to the Classified Information Procedures Act to ensure that classified information is protected from all possibility of disclosure after indictment in any criminal case.

99/1 - 7: Domestic Relocation Allowances

Pending further study of the effects of statutory amendments relating to domestic relocation of federal employees contained in Public law 98-151, the Director of Central Intelligence may propose legislation to relieve any further inequities still being experienced by Intelligence Community personnel in connection with the allowances payable as a result of permanent changes of station within the United States.

- 99/1 - 8: Legislation to Ameliorate the Adverse Impact of Federal Retirement System Changes on the Central Intelligence Agency's Ability to Recruit and Maintain the Quality Work Force Essential to the Effective Performance of the National Intelligence Mission

The Director of Central Intelligence may propose, either in connection with the supplemental retirement system for new federal employees to be considered by the Congress in 1985, or as an amendment to the Central Intelligence Agency Retirement and Disability System, legislation to deal with the impact of social security coverage and federal retirement system changes, particularly with respect to the adverse effect that indiscriminate increases in retirement ages would have on intelligence operations.

- 99/1 - 9: Avoidance of Penalty for Mandatory Retirement Prior to Age 62

Pending further review of the effects of recent legislation restoring full COLAs in January of 1986, the Director of Central Intelligence may propose legislation to amend the Omnibus Reconciliation Act of 1982 to exclude individuals who retire prior to age 62 under the mandatory retirement provisions of the Central Intelligence Agency Retirement and Disability System from the COLA penalty provisions provided by the Omnibus Reconciliation Act for early retirees.

- 99/1 - 10: Protection of Intelligence Information

There may be a need for legislation which clearly provides criminal penalties for willful unauthorized disclosures of classified information by federal employees and others having authorized access to classified information.

- 99/1 - 11: Signals Intelligence Protection Act

The Director of Central Intelligence may support legislation to amend the National Security Act of 1947 to better protect sensitive signals intelligence by providing the United States with certain civil remedies in cases involving the intentional unauthorized disclosure of such

information by individuals in circumstances where the individual reasonably should know that this disclosure is likely to impair the signals intelligence capability or activities of the United States.

99/1 - 12: Compensation of Director and Deputy Director of Central Intelligence

The Director of Central Intelligence will submit legislation to amend title 5, United States Code, to place the positions of Director of Central Intelligence and Deputy Director of Central Intelligence at Executive Schedule Levels I and II, respectively. This proposal may become law as part of the Fiscal Year 1985 Intelligence Authorization Act, but will be pursued in the first session of the 99th Congress if it does not.

99/1 - 13: Department of Defense Proprietaries

The Director of Central Intelligence may support legislation which would grant DOD authority to establish and operate corporations or other business entities in support of authorized and appropriately coordinated intelligence activities.

99/1 - 14: Security Personnel at CIA Installations

The Director of Central Intelligence will submit legislation which will authorize Agency personnel within the United States to perform the same functions as special policeman of the General Services Administration perform under 40 U.S.C. 318. This proposal may become law as part of the fiscal year 1985 Intelligence Authorization Act, but will be pursued in the first session of the 99th Congress if it does not.

99/1 - 15: Interlocutory Appeal Authority

The Director of Central Intelligence may submit a proposal to amend the United States Code to permit an interlocutory appeal by the United States from any decision of a United States court or a judge thereof on any evidentiary ruling or dispositive motion when the Director of Central Intelligence certifies that the decision being appealed would have an adverse impact on the national security.

99/1 - 16: Matters Committed to Agency Discretion

The Director of Central Intelligence may propose an amendment to the National Security Act to make it clear that all Agency administrative actions, including decisions on hiring, firing, and security approvals, shall be deemed committed to Agency discretion by law and thus within a current exemption of the Administrative Procedure Act.

99/1 - 17: Remedy for Injuries Arising Out of Acts or Omissions of Intelligence Community Personnel

The Director of Central Intelligence may propose an amendment to the United States Code to provide that any cause of action a person may have for injury based on an act or omission of an officer or employee of an intelligence agency would be against the United States exclusively.

5. In addition to the above proposals which have been included in either an earlier Legislative Program or Authorization Act, OGC has submitted two new initiatives for inclusion in this year's Legislative Program. Item 99/1 - 15 would provide the United States with a right of interlocutory appeal of any federal court evidentiary ruling or dispositive motion when the DCI certifies that the decision being appealed would have an adverse impact on the national security. Item 99/1 - 17 would limit the personal liability of intelligence community personnel for causes of action arising out of injuries based on acts or omissions of such personnel. An individual claim in such actions would have to be brought exclusively against the United States.

6. If you have no objections to the attached Legislative Program, we will make appropriate arrangements to have the Program included as part of the NFIP package submitted by ICS to OMB.

/s/Charles A. Briggs
Charles A. Briggs

Attachment

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OLL:LEG:SWH:sm (27 September 1984)

M. [REDACTED] DUM FOR: [REDACTED]

Chief, Legislation Division
Office of Legislative Liaison

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FROM: [REDACTED]

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Executive Assistant to the DDCI

Steve,

Would just like to make sure Mr. McMahon has an opportunity to see the final package before it is forwarded to OMB.

Thanks,

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[REDACTED]

Att: OLL 84-2509/2

Date 1 August 1984

OLL 84-2509/2

25 July 1984

MEMORANDUM FOR: See Distribution

FROM:

Chief, Legislation Division
Office of Legislative Liaison

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SUBJECT: Legislative Program for the First Session of
the Ninety-Ninth Congress

1. The Office of Management and Budget requires that the head of each Federal agency submit a proposed legislative program for Administration clearance each fall for the session of Congress which begins the following January 1985. This memorandum initiates the process of formulating the Central Intelligence Agency legislative program for the First Session of the Ninety-Ninth Congress, and the Agency's contribution to the Intelligence Community program that also will be submitted by the Director of Central Intelligence.

2. The following guidelines are provided to aid your component in the preparation of proposals for inclusion in the legislative program:

-- Items contained in the current legislative program, a copy of which is attached for your information, should be repeated to indicate a continued interest in the passage of these initiatives;

-- It is not necessary to submit specific statutory language, or to specify a statute to be amended. A description of each problem or goal, accompanied by an explanation of why it is thought that legislation is necessary to solve or achieve it, is sufficient;

-- All suggestions also should be accompanied by your component's views as to whether or not the proposal has Intelligence Community applicability; and

-- All proposals which seek to amend or modify Title 18, United States Code, which address law enforcement authorities or which otherwise potentially affect Department of Justice (DOJ) equities should be discussed with and coordinated with DOJ prior to their submission for inclusion in this session's legislative program.



3. I would appreciate receiving your proposals by 17 August 1984. Your cooperation in this matter is much appreciated. A memorandum similar to this one is being sent to appropriate offices throughout the Intelligence Community.



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Attachment